

AMENDED IN SENATE MAY 7, 2012

**SENATE BILL**

**No. 977**

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**Introduced by Senator Yee**

January 23, 2012

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*An act relating to state employees to amend Section 111825 of the Health and Safety Code, relating to the Sherman Food, Drug, and Cosmetic Law, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 977, as amended, Yee. ~~State employees: memoranda of understanding: State Bargaining Units 16 and 19. Sherman Food, Drug, and Cosmetic Law: nail polish.~~

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the federal Food, Drug, and Cosmetic Act. A violation of these provisions is a crime. Existing law, the California Safe Cosmetics Act of 2005, which is within the Sherman Law, requires certain manufacturers of cosmetic products subject to regulation by the federal Food and Drug Administration that are sold in the state to provide the department with a complete and accurate list of their cosmetic products that contain any chemical identified as causing cancer or reproductive toxicity, as specified.

This bill would increase the criminal penalty for specified violations by a nail polish manufacturer of the California Safe Cosmetics Act of 2005 to a maximum of \$5,000.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Under existing law, a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.~~

~~This bill would approve provisions of memoranda of understanding entered into between the state employer and State Bargaining Unit 16 (Physicians, Dentists and Podiatrists) and State Bargaining Unit 19 (Health and Social Services/Professional) that require the expenditure of funds, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act. The bill would provide that provisions of the memoranda of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for those provisions are specifically appropriated by the Legislature, and would require the state employer and the affected employee organization to meet and confer to renegotiate the affected provisions if funds for those provisions are not specifically appropriated by the Legislature.~~

~~Vote: majority <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 111825 of the Health and Safety Code is  
2     amended to read:

3     111825. (a) Any person who violates any provision of this  
4     part or any regulation adopted pursuant to this part shall, if  
5     convicted, be subject to imprisonment for not more than one year  
6     in the county jail or a fine of not more than one thousand dollars  
7     (\$1,000), or both the imprisonment and fine.

8     (b) Notwithstanding subdivision (a), any person who violates  
9     Section 111865 by removing, selling, or disposing of an embargoed  
10    food, drug, device, or cosmetic without the permission of an  
11    authorized agent of the department or court shall, if convicted, be  
12    subject to imprisonment for not more than one year in the county  
13    jail or a fine of not more than ten thousand dollars (\$10,000), or  
14    both the fine and imprisonment.

15    (c) Notwithstanding subdivision (a), a manufacturer, as defined  
16    in Section 111791.5, of nail polish that violates Article 3.5  
17    (commencing with Section 111791) or any regulation adopted

1 *pursuant to this article shall, if convicted, be subject to a fine of*  
2 *not more than five thousand dollars (\$5,000).*

3 (e)

4 (d) If the violation is committed after a previous conviction  
5 under this section that has become final, or if the violation is  
6 committed with intent to defraud or mislead, or if the person  
7 committed a violation of Section 110625 or 111300 that was  
8 intentional or that was intended to cause injury, the person shall  
9 be subject to imprisonment for not more than one year in the county  
10 jail, imprisonment in state prison, or a fine of not more than ten  
11 thousand dollars (\$10,000), or both the imprisonment and fine.

12 *SEC. 2. This act is an urgency statute necessary for the*  
13 *immediate preservation of the public peace, health, or safety within*  
14 *the meaning of Article IV of the Constitution and shall go into*  
15 *immediate effect. The facts constituting the necessity are:*

16 *In order to protect the health and safety of salon workers and*  
17 *consumers of nail polish from the harmful effects of some of the*  
18 *ingredients of nail polish, it is necessary that this act take effect*  
19 *immediately as an urgency statute.*

20 ~~SECTION 1. The Legislature finds and declares that the~~  
21 ~~purpose of this act is to approve agreements pursuant to Section~~  
22 ~~3517.5 of the Government Code entered into by the state employer~~  
23 ~~and State Bargaining Units 16 and 19.~~

24 ~~SEC. 2. The provisions of the memoranda of understanding~~  
25 ~~prepared pursuant to Section 3517.5 of the Government Code and~~  
26 ~~entered into by the state employer and State Bargaining Units 16~~  
27 ~~and 19 that require the expenditure of funds are hereby approved~~  
28 ~~for the purposes of subdivision (b) of Section 3517.6 of the~~  
29 ~~Government Code.~~

30 ~~SEC. 3. The provisions of the memoranda approved by Section~~  
31 ~~2 of this act that require the expenditure of funds shall not take~~  
32 ~~effect unless funds for these provisions are specifically appropriated~~  
33 ~~by the Legislature. If funds for these provisions are not specifically~~  
34 ~~appropriated by the Legislature, the state employer and the affected~~  
35 ~~employee organization shall meet and confer to renegotiate the~~  
36 ~~affected provisions.~~

37 ~~SEC. 4. Notwithstanding Section 3517.6 of the Government~~  
38 ~~Code, the provisions of the memoranda of understanding included~~  
39 ~~in Section 2 that require the expenditure of funds shall become~~  
40 ~~effective even if the provisions of the memoranda of understanding~~

- 1 are approved by the Legislature in legislation other than the annual
- 2 Budget Act.

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